

SUPERIOR COURT
OF THE
STATE OF DELAWARE

NOEL EASON PRIMOS
JUDGE

KENT COUNTY COURTHOUSE
38 THE GREEN
DOVER, DELAWARE 19901
TELEPHONE (302) 739-5331

December 23, 2020

Danna Browne
1782 Forest Park Drive
Forestville, MD 20747

James E. Drnec, Esquire
Katherine J. Sullivan, Esquire
Wharton Levin Ehrmantraut
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300 Delaware Ave., Suite 1110
Wilmington, DE 19899

RE: *Browne v. Bayhealth Medical Center*
C.A. No. K20C-10-007 NEP

Dear Ms. Browne and Counsel:

On October 20, 2020, this Court granted Ms. Browne an additional 60 days from the filing of the complaint, that is, until December 7, 2020, to file an affidavit of merit. An affidavit of merit is required in health-care negligence lawsuits governed by 18 *Del. C.* § 6853(a)(1). Pursuant to 18 *Del. C.* § 6853(a)(2), the Court may only grant “a *single* 60-day extension for the time of filing the affidavit of merit.”¹

Ms. Browne filed suit against Defendant Bayhealth Medical Center, Inc. (“Bayhealth”) on October 5, 2020, alleging medical negligence. Having not filed an affidavit of merit with her complaint but having shown good cause for an extension, Ms. Browne was granted the statutorily-permitted 60-day extension. As of the date of this letter, however, Ms. Browne has not submitted an affidavit of merit.

¹ 18 *Del. C.* § 6853(a)(2) (emphasis added); see also *Forrest v. Fresenius Kidney Care*, 2018 WL 6261857, at *2 (Del. Super. Nov. 29, 2018) (stating that if the plaintiff did not file an affidavit of merit within the 60-day extension granted by the Court, plaintiff’s action would be dismissed).

Pursuant to Super. Ct. Civ. R. 41(e), Ms. Browne having failed to comply with a statute and a Court order, the Court may dismiss the action upon notice. Therefore, in accordance with the procedure set forth in Rule 41(e), the Office of the Kent County Prothonotary, simultaneously with the issuance of this Letter Order, will issue a notice to Ms. Browne indicating that her complaint will be dismissed unless, within 15 days from the date of the notice, she files a written submission with the Court showing good cause for why she did not submit an affidavit of merit within the extended time provided to her by this Court in its October 20, 2020, order.²

IT IS SO ORDERED.

Sincerely,

/s/ Noel Eason Primos

Judge

NEP/dsc

² See Super. Ct. Civ. R. 41(e) (requiring that a party file a response within 15 days showing good cause for failure to comply).